

Final

Minutes  
Virginia Outdoors Foundation  
Meeting of the Board of Trustees  
December 8, 2004  
Berkeley Room, Kenwood Library  
Charlottesville, Virginia

Trustees present: Mr. Frank Kilgore, Chairman, Dr. M. Rupert Cutler, Mr. Frank Hartz, Ms. Katherine Imhoff and Mr. Charles Seilheimer.

VOF Staff Present: Tamara Vance, Executive Director, Ruth Babylon, Sherry Buttrick, Faye Cooper, Leslie Grayson, Jeff Matthews, Jennifer Perkins, Bob Lee, Estie Thomas, Laura Thurman, Leslie Trew and Bill Wasserman. Also in attendance were Mr. Rex Linville from the Piedmont Environmental Council, Ms. Carrie Hagan from the James River Association, Mr. Brock Herzberg from the Farm Bureau, Mr. Ray Pickering from Fauquier County, Ms. Valerie Hong with McGuire Woods, Mr. Todd Hochrein with Kluge Vineyards, and Ms. Nikki Rovner from The Nature Conservancy.

Mr. Kilgore asked for any changes to the Order of Business as shown on the agenda and the following changes were made; #'s 14 and 42 were moved to non-consent and #59 was withdrawn. Staff indicated that four last minute proposals would be presented verbally for provisional approval in accordance with established policy. Mr. Seilheimer made a motion to approve the Order of Business as modified above. Ms. Imhoff seconded the motion and it was approved unanimously.

Mr. Seilheimer made a motion to approve the minutes of the previous meetings, August 18<sup>th</sup> and September 23<sup>rd</sup> including edits outlined in email from Mr. Fred Fisher. Mr. Hartz seconded the motion and it was approved unanimously.

Mr. Kilgore asked the staff for any changes to easements on the Consent-A agenda list and the following details were added; #9 changed to propose two single family dwellings and one secondary. Ms. Imhoff made a motion to accept the Consent-A agenda easements including #'s 1-13, and 15- 28 as modified above. Mr. Seilheimer seconded the motion and it was approved unanimously.

Mr. Kilgore asked for any changes to easements on the Consent-B agenda list and the following details were added; #38 added one single family dwelling and one secondary dwelling for a total of 16 each and increased the review threshold for structures for shooting or hunting from 400 sq. ft. to 1,000. Ms. Imhoff made a motion to accept the Consent-B agenda easements including #'s 29-41 and 43-58 as modified above. Mr. Seilheimer seconded the motion and it was approved unanimously.

Ms. Buttrick presented the Light easement (#14) of 231.68 acres in Campbell County. Ms. Buttrick indicated that there had been a question of the proposal's consistency with the County

Comprehensive Plan, but that the County's Director of Planning had determined that it was consistent. She would obtain a letter confirming such before recording easement. Ms. Imhoff made a motion to accept the easement with the above letter. Mr. Hartz seconded the motion and it was approved unanimously.

Ms. Vance presented the Gillette easement (#42) of 85.35 acres in Floyd County. Although, the proposed easement exceeded VOF Guidelines regarding buildings, Ms. Vance recommended acceptance of the easement because of its proximity to the Buffalo Mt. State Natural Area Preserve. Ms. Imhoff requested additional protections be added to the easement for the protection of the scenic view from Buffalo Mt. Ms. Imhoff made a motion to accept the easement as modified above. Mr. Seilheimer seconded the motion and it was approved unanimously.

Ms. Grayson presented the Matheson easement (#60) of 91 acres in Fauquier County. Mr. Seilheimer made a motion to approve the easement as presented. Mr. Hartz seconded the motion and it was approved unanimously.

Ms. Babylon presented the Miller easement (#61) of 1119 acres in Giles County. Ms. Babylon presented an opinion from Mr. Fred Fisher and a letter from the Department of Mines and Minerals stating that the likelihood of anyone exercising retained mineral rights was so small as to be negligible. Ms. Imhoff made a motion to accept the easement with the addition of VOF's standard language limiting oil and gas rights. Mr. Hartz seconded the motion and it was approved unanimously.

Ms. Buttrick presented the Mount Air Farm, LLC easement (#62) of 229.61 acres in Albemarle County. Although, the proposed easement exceeded VOF Guidelines regarding density and buildings, Ms. Buttrick recommended acceptance of the easement because of the restrictions on the size and location of the permitted parcels. Mr. Seilheimer made a motion to accept the easement as presented. Mr. Hartz seconded the motion and it was approved unanimously.

Ms. Thomas presented the Nichols easements (#'s 63 & 64) of 46.29 and 52.28 acres respectively. Ms. Thomas indicated that they were non-consent in order to prevent any impression of circumventing the guidelines. Mr. Seilheimer made a motion to accept the easement as presented. Mr. Hartz seconded the motion and it was approved unanimously.

Ms. Buttrick presented the Thomas Jefferson Memorial Fdn easement (#65) of 1099.02 acres in Albemarle County. Ms. Buttrick indicated several correction that were needed to the draft including; the language "Except as provided in Article 19" needed to be inserted as the first line in Article 3 on page 8, in Article 6 on page 9, the words "or lakes" would be deleted in the second line, on page 10, line 6, "it a flat roof" should be changed to "if", on page 11, (F), sixth line, add "number of buildings" to list of considerations. Mr. Seilheimer made a motion to accept the easement as modified above. Mr. Hartz seconded the motion and it was approved unanimously. Ms. Imhoff recused herself from the discussion and abstained from the vote.

Mr. Wasserman presented the Watts easement (#66) of 278 acres in Scott County. Mr. Wasserman indicated that there was a mineral rights issue with this proposal. Mr. Hartz made a motion to accept the easement if the co-owners released all of the surface mining rights, although

they could keep limited oil and gas rights, language subject to approval by Mr. Kilgore. Ms. Imhoff seconded the motion and it was approved unanimously.

Ms. Grayson presented the Weitz Enterprises, LP easement (#67) of 247 acres in Rappahannock County. Although, the proposed easement exceeded VOF Guidelines regarding density, Ms. Grayson recommended acceptance of the easement because of the additional limitations on the parcels and the siting, size, and design restrictions on the three potential new dwellings. Ms. Imhoff said that with the additional protections she felt that the proposal actually met or exceeded the VOF Guidelines. Dr. Cutler made a motion to accept the easement as presented. Mr. Seilheimer seconded the motion and it was approved unanimously.

Ms. Cooper presented the Zimmermann easement (#69) of 201 acres in Rockbridge County. Although, the proposed easement exceeded VOF Guidelines regarding allowable parcels, Ms. Cooper recommended acceptance of the easement because the proposal allowed fewer dwellings and included siting and size limitations for those proposed. Ms. Imhoff made a motion to accept the easement as presented. Mr. Hartz seconded the motion and it was approved unanimously.

## **PRESERVATION TRUST FUND PROPOSALS**

Ms. Thomas presented the Baylor easement (#70) of 1800 acres in Essex County. She went on to present the purchase grant request in the amount of \$200,000 and indicated that the staff recommended full funding. Ms. Imhoff made a motion to accept the easement as presented and to fund the project as requested. Dr. Cutler seconded the motion and it was approved unanimously.

Ms. Trew presented the Hakala easement (#71) of 79 acres in Powhatan County. She went on the present the grant request in the amount of \$6,900 and indicated that the staff recommended full funding. Dr. Cutler made a motion to accept the easement as presented and to fund the project as requested. Ms. Imhoff seconded the motion and the motion carried with four votes. Mr. Kilgore voted against the motion saying he thought the cost-only program needed to be updated because of the effects of the new tax credit law.

Mr. Wasserman presented the Partyka easement (#72) of 238 acres in Tazewell County. He went on to present the grant request in the amount of \$4,000 and indicated that the staff recommended full funding. Mr. Seilheimer made a motion to accept the easement as presented and to fund the project as requested. Dr. Cutler seconded the motion and it was approved unanimously.

Ms. Thomas presented the Welch easement (#73) of 79.27 acres in Northumberland County. She went on to present the grant request in the amount of \$7,000 and indicated that the staff recommended full funding. Mr. Seilheimer made a motion to accept the easement as presented and to fund the project as requested. Ms. Imhoff seconded the motion and it was approved unanimously.

Ms. Vance presented the Woodruff easement (#74) of 65 acres in Grayson County. Ms. Vance went on to present the grant request in the amount of \$4,632.50 and indicated that the staff recommended full funding. Mr. Seilheimer made a motion to accept the easement as presented

and to fund the project as requested. Mr. Hartz seconded the motion and it was approved unanimously.

Dr. Cutler made a motion to require that all properties placed under easement for which the landowner receives funds from the Open Space Lands Preservation Trust Fund should post a sign advertising such for at least five years. The design and language of such sign to be approved by Mr. Bob Lee. Mr. Seilheimer seconded the motion and it was approved unanimously.

## **RECONSIDERATIONS**

Ms. Cooper presented the Buxton Farm reconsideration (#75) of 85.76 acres in Alleghany County. The proposal was originally accepted at the October 2002 meeting with 150 acres. Ms. Cooper indicated that at this time, the proposal needed to be re-approved because the previous acceptance had expired and because the acreage had been determined to be significantly less than originally proposed. The proposal had been scaled back accordingly. Ms. Imhoff made a motion to accept the easement with the addition of language requiring VOF siting review for all secondary dwellings, a 200 ft. set back from Rt. 629 for all structures including the secondary dwellings and VOF review of farm buildings larger than 5000 sq. ft. Dr. Cutler seconded the motion and it was approved unanimously.

Ms. Babylon presented the Franklin Enterprises easement (#76) of 167.9 acres in Franklin County. The easement was originally accepted in March 2004, but the landowner now requested an additional secondary dwelling. The current proposal would still fall within the VOF Guidelines regarding density and buildings. Mr. Seilheimer made a motion to accept the easement allowing the third secondary on this property only if there was not a secondary dwelling permitted on the adjacent easement proposal under the same ownership (Salem Enterprises II). In the event that the adjacent property did allow a secondary dwelling, then the additional on this property would be allowed only if VOF siting review was required for all secondaries on both properties. Ms. Imhoff seconded the motion and it was approved unanimously.

Ms. Babylon presented the Gilkie easement (#77) of 49.5 acres in Bedford County. This proposal was originally accepted at the March 2004 meeting allowing one primary dwelling and no secondary dwellings. At this point, the landowners were additionally requesting one secondary dwelling. Ms. Babylon recommended acceptance of the easement because the dwelling would be restricted in size and placed in an existing outbuilding. Dr. Cutler made a motion to accept the easement as presented. Mr. Hartz seconded the motion and it was approved unanimously.

Ms. Buttrick presented the Kluge Estate easement (#78) of 234.11 acres in Albemarle County. This proposal was originally considered at the Sept 2004 meeting and included an existing farm shop. At this time, the proposal did not include the farm shop. Mr. Seilheimer made a motion to accept the easement as presented. Ms. Imhoff seconded the motion and it was approved unanimously. Ms. Imhoff requested that the staff track the variations of winery language approved in the past in order to develop a standard policy.

Ms. Vance presented the Marye easement (#79) of 562 acres in Montgomery County. This easement was previously approved with three parcels at the September 2004 meeting. The

landowner now requested four parcels instead of three, which was well within VOF Guidelines. Ms. Imhoff made a motion to accept the easement as presented. Mr. Seilheimer seconded the motion and it was approved unanimously.

Ms Buttrick presented the Plank Road Associates A and B easements (#'s 80 & 81) of 37.5 and 333.6 acres respectively in Albemarle County. The easements had previously been accepted at the Sept 2004 meeting. At this time, the proposals had changed both in terms and in acreage. Mr. Seilheimer made a motion to accept the easement as presented. Dr. Cutler seconded the motion and it was approved unanimously.

Ms. Grayson presented the Rifaat easement (#82) of 232 acres in Rappahannock County. This proposal was originally accepted at the Sept 2004 and the current proposal reduced the acreage from 282 to 232. Ms. Grayson recommended acceptance of the easement. Ms. Imhoff made a motion to accept the easement as presented. Mr. Hartz seconded the motion and it was approved unanimously.

Ms. Babylon presented the two Slusher easements (addendum) of 112 and 109 acres respectively in Floyd County. The easements were originally accepted at the Sept 2004 meeting and both were now requesting an additional small parcel in each proposal. Ms. Babylon recommended acceptance of the easements because they both met VOF's Guidelines regarding density and buildings. Ms. Imhoff made a motion to accept the easements as presented. Mr. Hartz seconded the motion and it was approved unanimously.

Ms. Babylon presented the Todd, Mark easement (#83) of 272 acres in Grayson County. This easement was originally accepted at the Sept 2003 meeting. At this point, the landowner requested one division of the property. Ms. Babylon recommended acceptance of the easement because the proposal met VOF's Guidelines regarding density and buildings and the change was insignificant to the proposal. Mr. Seilheimer made a motion to accept the easement as presented. Ms. Imhoff seconded the motion and it was approved unanimously.

Ms. Thomas presented the Trevilians Station Battlefield Foundation easements (#'s 84-86) of 114, 43.49 and 419.26 acres respectively in Louisa County. These easements were originally accepted at the Dec 2002 meeting and the approval was set to expire before they could be recorded. Ms. Thomas indicated that she was still working with lawyer to refine the archeological language for this easement. Mr. Seilheimer made a motion to accept the easement with the following modifications; skeet shooting allowed only on the largest (419.26 ac.) parcel with prior written approval on the development of such enterprise from VOF and the addition of refined archeological language developed with input from the Department of Historic Resources (DHR). Dr. Cutler seconded the motion and it was approved unanimously.

## **COUNTY PDR PROGRAM PROPOSALS**

Ms. Grayson presented the Cool Lawn Farms, LLC easement (#87) of 205 acres in Fauquier County to be co-held by VOF and County of Fauquier. Mr. Seilheimer made a motion to accept the easement as presented. Mr. Hartz seconded the motion and it was approved unanimously.

## **CO-HOLD PROPOSALS**



Ms. Vance presented the French easements (#'s 88 & 89) of 118 and 168 acres respectively in Pulaski County. Ms. Imhoff made a motion to accept the easements as presented. Dr. Cutler seconded the motion and it was approved unanimously.

Ms. Trew presented the Garnett easements (#'s 90- 92) of 116, 172, and 328 acres respectively in Amelia and Prince Edward Counties. Ms. Trew indicated that applications for FRPP funding had been submitted and a co-holder would be required if funds were approved. Mr. Seilheimer made a motion to accept the easements with or without a co-holder if not required. Ms. Imhoff seconded the motion and it was approved unanimously.

Ms. Cooper presented the Huttinger easement (#93) of 219.043 acres in Alleghany County. She indicated that the landowners had requested that Valley Conservation Council (VCC) co-hold the easement. Ms. Imhoff made a motion to accept the easement as presented. Mr. Seilheimer seconded the motion and it was approved unanimously.

Ms. Cooper presented the Woods easement (#94) of 195.584 acres in Highland County. Ms. Cooper indicated that the landowner had requested that VCC co-hold the easement. Ms. Imhoff made a motion to accept the easement as presented. Mr. Seilheimer seconded the motion and it was approved unanimously.

## **AMENDMENT REQUESTS**

Ms. Buttrick presented the Black Fox Hills Ltd. easement (#95) in Nelson County. This easement was recorded in January 2000 and at this time the landowner requested that the provision prohibiting motorized boating except for electric motors be removed. Ms. Buttrick indicated that the landowners were willing to reduce the allowed parcels from twelve to ten and to further reduce the permitted secondary dwellings from ten to five. Ms. Buttrick recommended acceptance of the amendment because the benefit of the reduced buildings to open space was greater than the benefit of no motorized boating to water quality. She pointed out that the lake is not a source of drinking water and that the reduced buildings would protect the lake by lessening erosion and sediment. Mr. Hartz made a motion to accept the easement amendment as presented. Mr. Seilheimer seconded the motion and it was approved unanimously.

Mr. Kilgore opened the floor to public comment at 1pm. There were no comments from the public. Mr. Kilgore reiterated that representatives of the Mary Moody Northen Foundation were welcome to present information or proposals at any regularly scheduled meeting during the public comment period and added that related materials should be sent to VOF before the meeting for distribution. He went on to inform the newly appointed Trustees that in a previous meeting the Trustees had designated him as the Chairman to be the sole point of contact for representatives of the Mary Moody Northen Endowment.

Four late easement proposals were made verbally to the Trustees for which they voted on provisional approval. Maps and proposal sheets were passed out for the projects. Final proposals must strictly adhere to VOF's Guidelines with final documents approved by the Chairman.

Ms. Trew presented the McLean easement of approximately 240 acres in Charles City County. Ms. Imhoff made a motion to accept the easement pending Mr. Kilgore's approval of the final document. Dr. Cutler seconded the motion and it was approved unanimously.

Ms. Trew presented the Eastern Chesapeake Associates, Inc. easement of approximately 267 acres in the City of Chesapeake. Dr. Cutler made a motion to accept the easement pending Mr. Kilgore's approval of the final document. Mr. Seilheimer seconded the motion and it was approved unanimously.

Ms. Grayson presented the Cooley easement of approximately 140 acres in Fauquier County. Ms. Imhoff made a motion to accept the easement pending Mr. Kilgore's approval of the final document. Dr. Cutler seconded the motion and it was approved unanimously.

Ms. Grayson presented the LaRose (Catesby Farm) easement of approximately 167 acres in Loudoun County. Ms. Imhoff made a motion to accept the easement pending Mr. Kilgore's approval of the final document. Dr. Cutler seconded the motion and it was approved unanimously.

## **POLICY DISCUSSIONS**

Tax Credit Cap- Ms. Vance and Ms. Nikki Rovner provided an update on recent discussions and meetings within the land trust community related to the tax credit.

Other Legislation- Mr. Bob Lee indicated that he would be scheduling a meeting with Mr. Joe Maroon of the Department of Conservation and Recreation (DCR) and Secretary Murphy to discuss the working relationship between VOF and DCR and possible proposed legislation affecting the relationship.

Aldie Mill/ Loudoun Cty. Progress Report- Ms. Vance announced that the process of the possible transfer was moving ahead and expressed optimism for a future transfer.

Mr. Lee presented a proposal for a Memorandum of Understanding (MOU) between VOF and county governments related to the easement program. Mr. Kilgore directed Mr. Lee to proceed with implementing the MOU's.

## **REPORT OF THE EXECUTIVE DIRECTOR**

Ms. Vance made a brief report highlighting the outreach activities of various staff members and asked the Trustees to approve a resolution authorizing Mr. Lee to take over the duties of Executive Director. Dr. Cutler made a motion to approve the resolution as presented. Ms. Imhoff seconded the motion and it was approved unanimously.

Ms. Vance also announced the departure of Ms. Patti Jackson the director of the James River Association and proposed a letter of appreciation for all her hard work over the years. Ms. Imhoff made a motion to approve the letter as presented. Dr. Cutler seconded the motion and it was approved unanimously.

Mr. Hartz asked the staff to work on a proposal to set up new procedures for grant applications to the Open Space Lands Preservation Trust Fund in light of the new tax credit situation. He suggested a 50% matching grant for expenses up to \$4000.

Final

Mr. Kilgore suggested that title opinions be required for all new easement proposals begun in 2005. He indicated that he thought the expense should be added as eligible for a PTF grant. Mr. Hartz made a motion to direct the staff to begin requiring 20 year title certificates made out to VOF on every new proposal in 2005 and to make recommendations at the next meeting concerning the required timing. Dr. Cutler seconded the motion and it was approved unanimously.

The 2005 meetings were set for January 18<sup>th</sup> (special legislative issues meeting), April 7<sup>th</sup>, June 30<sup>th</sup>, September 22<sup>nd</sup> and November 17<sup>th</sup> with locations to be determined.

Dr. Cutler made a motion to adjourn the meeting, seconded by Mr. Hartz. Mr. Kilgore adjourned the meeting at 5:00 p.m.

Respectfully Submitted,

Anna Chisholm